

GOVERNMENT OF TELANGANA  
TRIBAL WELFARE (LTR) DEPARTMENT

ABSTRACT

Tribal Welfare Department-Revision Petition filed by Sri Kodisetty Roopavani W/o Rajini Kumar R/o Hemachandrapuram (V) of Kothagudem (M), Bhadrachalam District against the orders in CMA No.89/2005, dt:25.11.2006 of Additional Agent to Government & Project Officer, ITDA, Bhadrachalam, Bhadrachalam District - Revision Petition Dismissed - Orders - Issued

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TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 13

Dated: 04-09-2020,  
Read the following:

- 1) Revision Petition filed by Sri Kodisetty Roopavani W/o Rajini Kumar R/o Hemachandrapuram (V) of Kothagudem (M), Bhadrachalam District Dt:26.12.2006.
- 2) Govt.Memo.No.15096/LTR-2/2006-1&2,Dt:01.02.2007
- 3) Orders of the Hon'ble HC of AP at Hyderabad dt. 05.02.2007 in WP No. 1931 of 2007.
- 4) From the Additional Agent to Government, Bhadrachalam, Khammam Dist.,RP.No.15096/LTR-2/06-1,(CMANo.89/2005) Dt.29.10.2008
- 5) Govt.Letter.No.15096/LTR-2/2006, Dt.28.04.2012, 15.06.2017, 29.08.2017, 27.02.2018, 26.04.2018, 22.06.2018, 03.08.2018& 26.11.2019.

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ORDER

In the reference 1<sup>st</sup> read above, Sri Kodisetty Roopavani W/o Rajini Kumar R/o Hemachandrapuram (V) of Kothagudem (M), Bhadrachalam District has filed Revision Petition before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No. 89/2005, dt.25.11.2006 in respect of land in Sy.No.171/AA admeasuring Acs.0-31 gts at Hemachandrapuram, a scheduled village in Kothagudem Mandal, Bhadrachalam District.

2. In the reference 2<sup>nd</sup> read above, Government have rejected Stay on the orders of the Additional Agent to Government, Bhadrachalam as there were no valid reasons and sent a copy of the Revision Petition of the Petitioner to the Project Officer & Additional Agent to Government, Bhadrachalam and he was requested to furnish Para Wise Remarks and connected case records and in the reference 4<sup>th</sup> read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government observed that;

4. Case called on 7.12.2019. Counsel for petitioner present and submitted oral arguments.

5. Case was previously called on:

11.05.2012	..	Case adjourned.
15.07.2017	..	Adjourned.
16.09.2017	..	Adjourned.
17.03.2018	..	Counsel present. Adjourned.

(Contd...2)

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05.05.2018	..	Adjourned.
07.07.2018	..	Adjourned.
18.08.2018	..	Counsel present. Adjourned.

6. Perused the record.

7. As per orders of Special Deputy Collector(TW) Bhadrachalam in case No.21/2005/KGM, dt.19.4.2005:

- Case was initiated on the report of Special Deputy Tahsildar (TW), Bhadrachalam, dt.14.3.2005.
- Notices were issued to the petitioner Sri Chimatani Nagabhushanam S/o Narsaiah R/o Hemachandrapuram (Non Tribal) and Kodisetti Roopavani W/o Rajini Kumar was represented by Kondisetti Bala Ramaiah S/o late Nancharaiah R/o Hemachandrapuram.
- Case finally called on 19.4.2005. Both petitioner and respondent were absent. On behalf of respondent, her father-in-law was present and his deposition was recorded.
- He deposed that his father had purchased the suit land in Sy.No.171/AA to an extent of Ac.0.31 gts from Sri Kondapalli Gopal Rao during 1940 and respondent was in possession of the said land from the date of purchase and paying L.R. to the Government. He further deposed that they had not purchased from Sri Chimatani Nagabhushanam, and also stated that they were not having any recorded evidence in support of claim over the suit land.
- Perused deposition with reference to the report of SDT (Tribal Welfare) Bhadrachalam dt.14.3.2005. Respondent failed to produce recorded evidence in support of his claim.
- It was clear that the respondent had entered the suit land by way of encroachment after enforcement of the Regulation 1/1959 R/W 1/70 which is void under law.

8. Aggrieved by the above orders of the Special Deputy Collector (Tribal Welfare), Bhadrachalam, dt.19.4.2005, the Appellant viz., Smt.Kodisetty Roopavani W/o Rajini Kumar R/o Hemachandrapuram (v), Kothagudem (M) had filed an Appeal before the Appellate Authority i.e. Additional Agent to Government & Project Officer ITDA Bhadrachalam on 04.07.2005. The Additional Agent to Government & Project Officer, ITDA dismissed the Appeal on 25.11.2006 on the following grounds:

- Appellant stated that the land was in their possession since 1940 and was acquired from the Zamindar but as seen from the lower court it was stated that the land was purchased from Sri Kondapally Gopal Rao in the year 1940.
- Before this Court or in the lower Court, the Appellant had not produced any alleged sale said to have taken place in the year 1940 and also failed to show his long standing possession.

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- Appellant cited Hon'ble Supreme Court and High Court decisions stating that the tribunal is empowered only to eject the persons who are claiming the transfer in violation of regulation. The case was initiated on the report of Special Deputy Tahsildar.
- Appellant had not filed any documents to show that no transfer had taken place after the regulation. The burden was on the Appellant to prove that her possession was not in contravention of the Regulation. Therefore, the decisions of the Hon'ble High Court and the Hon'ble Supreme Court were not applicable to this case.
- Appellant further raised that lower court order shows that dead respondent No.1 as petitioner – but the appellant shown the dead person as respondent before this court also. If the contention of the appellant with regard to the dead person was accepted, the appeal was liable to be dismissed on this ground. The appellant had not filed any said certificate to prove his contention.
- Appellant failed to establish his prior possession before the regulation and in the result, the Appeal was dismissed with a direction to the MRO Kothagudem to take over the schedule land of Ac.0.31 gts in Sy.No.171/AA of Hemachandrapuram village, into Government custody under cover of panchanama and assign the same to the eligible poor tribals as per rules in force.

9. Aggrieved by the above orders of the Appellate Authority in CMA No.89/2005, dt.25.11.2006, the petitioner viz., Smt.Kodisetty Roopavani W/o Rajini Kumar, aged about 31 years, cultivation, R/o Hemachandrapuram village, Kothagudem Mandal, Khammam Dist., has filed Revision Petition before the Government on 27.12.2006 urging the following grounds:

- Addl.Agent to Govt ought to have appreciated the fact of bringing the notice of death of the 4<sup>th</sup> respondent Ch.Nagabhushanam herein long prior to the initiation of the proceedings by the 2<sup>nd</sup> respondent herein (Special Deputy Collector, Tribal Welfare, Bhadrachalam) and ought to have appreciated that the burden of proving that the 4<sup>th</sup> respondent is alive lies on the Special Deputy Tahsildar (Tribal Welfare) Bhadrachalam who alleged to have submitted a report dated 14.03.2005 as if Ch.Nagabhushanam is alive, and ought to have declared that the entire proceedings as well as the impugned order of the 2<sup>nd</sup> respondent is a nullity.
- 1<sup>st</sup> and 2<sup>nd</sup> respondents i.e. Additional Agent to Government & Special Deputy Collector (Tribal Welfare) not justified in directing the 3<sup>rd</sup> respondent (MRO Kothagudem) to take over possession of schedule land for the purpose of assignment to the members of Scheduled Tribe without appreciating the provisions of Secd.3(2) (a) of the LT Regulation 1/1959 and failed to consider the decision of the Hon'ble High Court in Vasudha Mishra's case as reported in 1998 (1) ALT 680, and failed to follow the guidelines issued by the Hon'ble High Court in the said case.

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- 1<sup>st</sup> respondent (Additional Agent to Government) failed to consider and appreciate the other defects raised by the counsel for the petitioner herein, and failed to give reasons for not considering them, and even not pronounced the impugned order in open court on 25.11.2006, only the existence of the impugned order come to the knowledge of the counsel after its receipt on 02-12-2006.
- The order under revision since passed without considering the written arguments cannot be sustainable in view of the decision of the Hon'ble High Court as reported in 2003 (3) ALT page-127 and 2005(2) ALT page-462.
- 1<sup>st</sup> respondent (Additional Agent to Government) ought to have seen that in obedience of the decisions of the Hon'ble Supreme Court of India and the Hon'ble High Court of AP cited in the written arguments, and as per the facts and circumstances of the face, the authorities under the provisions of Regulation 1/1959 has no jurisdiction to adjudicate and decide the validity/genuineness of the document, consequent possession and title of the revision petitioner, who is in possession of the schedule property long prior to the commencement of the Regulation 1/1970 duly paying land revenue to the Government and ought to have appreciated that it is for the Civil court to decide such disputes.
- 1<sup>st</sup> respondent (Additional Agent to Government) failed to appreciate that the 2<sup>nd</sup> respondent (Special Deputy Collector Tribal Welfare) given the date of hearing on 19.04.2005 and passed the order on the same date, even without furnishing the alleged report of the Special Deputy Tahsildar (Tribal Welfare) dated 14.03.2005 and failed to note and consider that the lower court not conducted any trial and passed order in violation of the principles of natural justice.
- 1<sup>st</sup> respondent (Additional Agent to Government) not justified in passing the impugned order under appeal, when the constitutional validity of confirming the powers is subjudiced before the Hon'ble High Court of AP in WP No.4660/2005 and in view of the observation of the Hon'ble High Court in its order dated 10.03.2005 in WPMP No.6231/2005 in WP No.4660/2005.
- 1<sup>st</sup> respondent (Additional Agent to Government) totally failed to consider and apply judicial mind to the referred decisions of the Hon'ble High Court of AP and the Hon'ble Supreme Court, and the procedural defects and jurisdiction point in the lower tribunal file before it and passed orders without giving any reasons for not considering them.

10. The Revision Petitioner has also filed WP No.1931 of 2007 in the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad praying to consider and dispose of the stay petition or the appeal itself within a reasonable time and also further direct the respondents herein not to dispossess the petitioner from possession and enjoyment of the schedule property in Sy.No.177/AA

(Contd..5)

measuring extent of Ac.0.31 gts situated at Hemachandrapuram village of Kothagudem Mandal, pending disposal of the revision on the file of the 1<sup>st</sup> Respondent (Government).

11. The Hon'ble High Court disposed of the above WP No.1931 of 2007 on 5.2.2007 with the order that "as the revision is pending before the 1<sup>st</sup> respondent, without expressing any opinion on the merits of the case, I am of the opinion that it is just and proper to direct the 1<sup>st</sup> respondent to dispose of the revision itself. The writ petition is accordingly disposed of directing the 1<sup>st</sup> respondent to consider and dispose of the revision as expeditiously as possible in accordance with the law after giving reasonable opportunity to all the concerned. There shall be no order as to costs."

12. In compliance to Govt.Memo.No.15096/LTR-2/2006-1, dt.01.02.2007, the Addl. Agent to Govt. Bhadrachalam has submitted the original case record along with the following para-wise remarks:

- In reply to grounds 2 & 3 that the 4<sup>th</sup> Respondent died long prior to initiation of proceedings before 2<sup>nd</sup> respondent (Special Deputy Collector TW Bhadrachalam) and 1<sup>st</sup> respondent (Additional Agent to Government) without appreciating the facts passed orders. As seen from the lower court orders i.e. CMA/89/2005, the Revision Petitioner herein who was the Appellant in CMA/89/2005 shown Chimtani Nagabhushanam as 1<sup>st</sup> respondent and filed CMA and on the other hand contending that the 1<sup>st</sup> respondent (Additional Agent to Government) passed orders against dead person, but the petitioner himself shown him as 1<sup>st</sup> respondent which is quite contrary to his plea. Even before the Government, he has shown as 4<sup>th</sup> respondent in Revision Petition as dead. How a revision will lie against a dead person. The Revision Petitioner knowing fully well that the 4<sup>th</sup> respondent is dead and filed Revision against dead person which is not maintainable.
- In reply to ground No.4, the 1<sup>st</sup> respondent (Additional Agent to Government) has followed the Hon'ble High Court judgements. As per orders of the Hon'ble High Court in WA No.78/1991 and 1664/1988 and WP Nos.13377/1986, 13470/86, dt.13.02.1993 published in 1993 (1) ALT 409 (FB) in Vemula Somalamma Vs Special Deputy Collector (TW) Rampachodavaram, when any transaction made from a non-tribal to another non-tribal, it will be hit by Regulation 1/59 amended by 1/70 and the said transaction is absolutely null and void. As per the decisions of the Hon'ble High Court the lower court rightly passed ejectment orders.
- In reply to ground No.5, it is not correct to say the judgement was not pronounced in open court on 25.11.2006, but the judgement was pronounced in open court on the said date.
- In reply to ground No.6 & 7, the 1<sup>st</sup> respondent (Additional Agent to Government) perused the written arguments, documents and passed orders. In the judgement it was clearly discussed the facts of case and passed orders.

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- In reply to ground 8, the contention of revision petitioner is that the 2<sup>nd</sup> respondent (Special Deputy Collector TW Bhadrachalam) given date of hearing on 19.4.2005 and passed orders on the same date without furnishing report of Special Deputy Tahsildar. But as seen from order of 2<sup>nd</sup> respondent (Special Deputy Collector Tribal Welfare Bhadrachalam) in LTR case No.21/2005, the revision petitioner was called absent on 19.4.2005 – her father-in-law present and deposed that his father purchased the land from K.Gopal Rao in the year 1940 and further stated that they are not having any recorded evidence in support of the claim over the suit land. After that only the 2<sup>nd</sup> respondent passed orders. The Revision Petitioner not attended the court or her father-in-law never asked the court about the report of Special Deputy Tahsildar.
- In reply to ground 9, that the Hon'ble High Court never given any direction to stop the proceedings even though the WP questioned the constitutional validity of confirming the powers on 1<sup>st</sup> respondent (Additional Agent to Government). The Hon'ble High Court in batch of the Writ Petitions 1241/05, 3814, 11731, 11732, 11733, 14138, 23892, 4660 and 26029 of 2005, 462, 13775, 13800, 18900, 23097, 26412, 26417, 21632 of 2006 and 1427, 1959, 2232, 2268, 1620, 2688, 3951, 4258, 4334, 4494, 4854, 3642, 6004 and 6316 of 2017 filed questioning validity of GO Ms.No.193 and passed common order dt.29.8.2007 dismissing the above batch of Writ Petitions and held that the GO Ms.No.193 dt.17.4.2002 does not suffer any vice or invalidity by reason of not being assented to by the President of India under paragraph 5 (4) of the V Schedule to the Constitution of India. Therefore, the contention of the petitioner is not valid as per the orders of the Hon'ble High Court. Hence, the 1<sup>st</sup> respondent (Additional Agent to Government) has got jurisdiction to entertain the appeal.
- In reply to ground 10, the 1<sup>st</sup> respondent (Additional Agent to Government) passed orders after perusing the Hon'ble Supreme Court and High Court decisions.

13. The Revision Petitioner both in the lower court and before the appellate authority and also before the Government failed to produce any documentary evidence in support of her claim that the suit schedule land in Sy.No.171/AA measuring Acs.0.31 gts situated at Hemachandrapuram (v) of Kothagudem Mandal, Khammam District (now in Bhadradi Kothagudem District) was purchased in the year 1940 from Sri Kondapalli Gopal Rao or acquired from Zamindar and also failed to prove her long standing possession in revenue records since then. The case is pending since 2006 and there is no point in holding the case any longer. The Revision Petition is dismissed accordingly duly upholding orders of the Additional Agent to Government & Project Officer ITDA Bhadrachalam in CMA No.89/2005, dt.25.11.2006.

14. Government after careful examination of the matter hereby DISMISS the Revision Petition filed by the petitioner Sri Kodisetty Roopavani, W/o. Rajini Kumar R/o. Hemachandrapuram (V), of Kothagudem (M), Bhadradi Kothagudem District and upheld the orders of the lower and appellate authorities i.e. Special Deputy Collector, Bhadrachalam in LTR Case No.21/2005/KGM,19.04.2005 and Additional Agent to Government & Project Officer, ITDA, Bhadrachalam, CMA.No.89/2005, Dt. 25.11.2006 respectively.

(Contd..7)

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15. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradri Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 4<sup>th</sup> read above are returned herewith to the Project Officer, ITDA & Additional Agent to Government, Bhadrachalam, Bhadradri Kothagudem District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU  
SECRETARY TO GOVERNMENT

To

Smt.Kodisetty Roopavani W/o. Rajini Kumar,  
R/o.Hemachandrapuram (V), Kothagudem (M),Bhadradri Kothagudem District.

Sri Chimatani Nagabushanam S/o. Narsaiah,  
R/o.Hemachandrapuram (V), Kothagudem (M),Bhadradri Kothagudem District.

The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Bhadradri Kothagudem District (w.e.)

Copy to :

The Special Deputy Collector(TW), Bhadrachalam, Bhadradri Kothagudem District for information and necessary action.

The Tahsildar, Manugur Mandal, Bhadradri Kothagudem District for necessary action.

Sri Nanduri Srinivas Rao, Advocates,  
Bhadrachalam, Bhadradri Kothagudem District

P.S to M(TW)/ P.S. to Prl. Secretary(TW)

SF/SC

//FORWARDED:: BY ORDER//

SECTION OFFICER